रजिस्ट्री सं० डी. 221 REGISTERED No. D. 221

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 3—उपखण्ड (ii)
PART II—Section 3—Sub-section (ii)
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 208] नई दिल्ली, शनिवार, अगस्त 28, 1965/भाद्र 6, 1887
No. 208] NEW DELHI, SATURDAY, AUGUST 28, 1965/BHADRA 6, 1887

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation

CENTRAL BOARD OF DIRECT TAXES

NOTIFICATION

INCOME-TAX

New Delhi, the 27th August 1965

S.O. 2704.—The following draft of rules further to amend the Income-tax Rules, 1962 which the Central Board of Direct Taxes proposes to make in exercise of the powers conferred by section 295 of the Income-tax Act, 1961 (43 of 1961), is hereby published for the information of all persons likely to be affected thereby; and notice is hereby given that the said draft will be taken into consideration on or after the 30th September, 1965.

Any objection or suggestion which may be received from any person with respect to the said draft before the date so specified will be considered by the Central Board of Direct Taxes.

"NOTIFICATION

INCOME-TAX

In exercise of the powers conferred by section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:—

1. (1) These rules may be called the Income-tax (Seventh Amendment) Rules, 1965.

(2) They shall come into force on

2. In the Income-tax Rules, 1962 (hereinafter called the principal rules), for rule 6A, the following rules shall be substituted, namely:—

'6A. *Limits and conditions for allowance of expenditure in certain cases.*— Expenditure referred to in sub-section (3) of section 37 shall be allowed only to the extent and subject to the conditions specified in rules 6B, 6C and 6D:

Provided that in the case of such expenditure incurred before 1st day of October, 1965 the full amount thereof, if otherwise admissible under sub-section (1) of section 37, shall be allowed.

6B. *Expenditure on advertisement.*—(1) The allowance in respect of expenditure on advertisement shall not in the following cases exceed—

(a) in respect of each advertisement in any printed publication other than a newspaper, Rs. 2,000;

Explanation.—For the purposes of clause (a), "newspapers" shall have the meaning assigned to it in clause (b) of section 2 of the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955 (45 of 1955);

(b) in respect of each advertisement in any daily newspaper for the purpose of promotion of sales or services or fostering the goodwill of the business or profession, covering more than one-half of a page, the amount payable for the half page;

(c) in respect of articles intended for presentation, Rs. 50 on each such article;

(d) in respect of any advertisement outside India involving payment in foreign currency, the amount covered by foreign exchange granted to, or permitted to be acquired by the assessee for this purpose under the law relating to foreign exchange for the time being in force.

(2) The allowance in respect of expenditure on advertisement shall not exceed—

(a) in respect of business of production of motion pictures or production-*cum*-distribution of motion pictures, twenty-five per cent. of the cost of production of each picture.

Explanation.—For the purposes of this clause "cost of production" shall be computed without taking into account the expenditure incurred on advertisement;

(b) in respect of business of distribution of motion pictures, ten per cent. of the gross receipts or Rs. 10,000, whichever is higher;

(c) in respect of any business relating to entertainment other than those referred to in clause (a) or clause (b), or any profession relating to entertainment, twenty-five per cent of the gross receipts or Rs. 10,000, whichever is higher;

(d) in respect of any business or profession, other than those referred to in clause (a) or clause (b) or clause (c), four per cent. of the turnover, or, as the case may be, the gross receipts, or Rs. 5,000, whichever is higher:

Provided that the Income-tax Officer may allow a deduction of an amount larger than the amount computed under the aforesaid provisions if he is satisfied that such larger amount had been wholly, necessarily and exclusively incurred for the purposes of the business or profession.

(3) Nothing contained in sub-rule (2) shall apply—

(a) in the case of a company,—

(i) to any expenditure on advertisement incurred by it during the previous year of its incorporation and the four successive previous years immediately following that previous year; and

(ii) where any business has been newly set up by it in any previous year subsequent to the previous year of its incorporation, any expenditure on advertisement incurred for the purposes of such business in the previous year in which the business was so set up and the

four successive previous years immediately following that previous year; or

(b) in the case of any other assessee, to any expenditure on advertisement for the purposes of a business or profession newly set up by that assessee, incurred in the previous year in which the business or profession was so set up and the four successive previous years immediately following that previous year; or

(c) to any expenditure on advertisement incurred for the purpose of promoting the sale of goods or services within a period of two years commencing from the date on which such goods or services were first introduced in the market; or

(d) to any expenditure on advertisement incurred wholly and exclusively for the purposes of the business or profession, to the extent such expenditure is related to purposes other than the promotion of sales or services or fostering the goodwill of the business or profession; or

(e) to any expenditure on advertisement incurred at or in connection with any fair or exhibition.

(4) For the purposes of sub-rule (2), the turnover, or, as the case may be, the gross receipts, if any, attributable to the goods or services referred to in clause (c) of sub-rule (3) shall not be taken into account.

(5) Notwithstanding anything contained in sub-rule (1) or sub-rule (2) or sub-rule (3)—

(a) where the Income-tax Officer is of the opinion that the expenditure incurred on a specific advertisement is in excess of the amount that is ordinarily payable in respect of such advertisement in course of normal trade, having regard to the time at which, and the place where, the advertisement is made and the medium adopted therefor, that portion of the amount which is considered by him to be excessive shall not be allowed as a deduction in computing the total income;

(b) (i) where the Income-tax Officer is of the opinion that any expenditure on advertisement of the nature described in clause (ii) is excessive or unreasonable having regard to the legitimate business needs of the assessee and the benefit derived by or accruing to him therefrom, that portion of the expenditure which is considered by him to be excessive shall not be allowed as a deduction in computing the total income;

(ii) the expenditure referred to in clause (i) is that incurred on advertisement involving payment—

(A) to a person (including in the case of a company or firm or an association of persons or a Hindu undivided family, a director or partner or member, as the case may be, of such company, firm or association or family) who has a substantial interest in the business of the assessee, or to a relative of such person; or

(B) to a person who carries on the business of, or profession as, a publicity or advertising agent, where the assessee, or in a case where the assessee is a company, a firm, or an association of persons or a Hindu undivided family, any director, partner or member, as the case may be, of such company, firm or association or family, or any relative of such assessee or such director, partner or member, has a substantial interest in the business or profession of that person;

(c) any expenditure on advertisement for which payment has been made in a sum exceeding Rs. 2,500 shall not be allowed as a deduction in computing the total income unless such payment is made by crossed cheque drawn on a bank or by crossed bank draft:

Provided that where an allowance has been made in the assessment for any year in respect of any liability incurred by the assessee for expenditure on advertisement exceeding Rs. 2,500 and subsequently during any previous year the assessee makes payment in respect thereof otherwise than in accordance with the provisions of this clause, the allowance originally made shall be deemed to have been wrongly made and the Income-tax Officer may recompute the total

income of the assessee for the previous year in which such liability was incurred and make the necessary amendment; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the payment was so made.

(6) For the purposes of this rule,—

(i) "turnover" means the aggregate of all amounts for which sales of any stock-in-trade have been effected by the assessee during the relevant previous year in the course of his business and credited to the manufacturing account or trading account or profit and loss account;

(ii) "gross receipts" means the aggregate of all amounts received or receivable by an assessee during the relevant previous year in the course of his business or profession (other than receipts which are of a capital nature) and credited to the revenue account of profit and loss account;

(iii) "relative" shall have the meaning assigned to it in clause (41) of section 2;

(iv) a person shall be deemed to have a substantial interest in a business or profession if,

(a) in a case where a business or profession is carried on by a company such person, is the beneficial owner of shares, not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits, carrying not less than twenty per cent. of the voting power; and

(b) in any other case, such person is the beneficial owners of not less than twenty per cent. of the capital employed in such business or profession.

6C. *Expenditure on residential accommodation including guest houses.*—(1) The allowance in respect of expenditure incurred by an assessee on the maintenance of residential accommodation in the nature of a guest house (hereinafter referred to as guest house) shall be limited to the amount laid out or expended on the maintenance of the guest house or, as the case may be, houses, specified hereunder:—

(a) (i) in the case of a company, one or more guest houses at the place where its registered office is situate;

(ii) in the case of any other assessee, one or more guest houses at the principal place of his business or profession;

(b) where the assessee is engaged in the raising or processing of raw materials or the manufacture processing or production of any article or thing or is maintaining any industrial establishment in which not less than one hundred whole-time employees have been employed throughout the relevant previous year, one or more guest houses at the place where any such operation is performed or the establishment is maintained, as the case may be;

(c) where the assessee maintains a guest house at any place other than the places referred to in clause (a) or clause (b), any guest house exclusively used by his employees while on leave.

Provided that the assessee has in his employment not less than one hundred whole-time employees throughout the relevant previous year and the guest house is maintained mainly for the use of the whole-time employees drawing salary not exceeding one thousand rupees per month.

(2) The allowance in respect of expenditure incurred by an assessee on the maintenance of any residential accommodation which results directly or indirectly in the provision of any benefit or any amenity or perquisite to an employee shall not exceed twenty per cent. of the salary due to such employee in respect of the period of his occupation of the said accommodation during the relevant previous year.

Provided that nothing in this sub-rule shall apply to any expenditure which results directly or indirectly in the provision of any benefit or amenity or perquisite to an employee whose income chargeable

under the head "Salaries" is seven thousand five hundred rupees or less.

(3) Nothing contained in this rule shall apply to expenditure to which the provisions of sub-clause (iii) of clause (c) of section 40 apply.

(4) No allowance shall be made in respect of expenditure incurred on the maintenance of any residential accommodation in the nature of a guest house unless the assessee maintains a register showing the following particulars, namely:—

(i) the name, and address of every visitor who had stayed in the guest house;

(ii) whether such visitor is an employee of the assessee;

(iii) whether his stay in the guest house was for the purposes of the business or profession of the assessee;

(iv) the date of arrival of the visitor at the guest house and the date of his departure therefrom;

(v) the amount, if any, paid by the visitor towards his lodging and boarding in the guest house.

(5) For the purposes of this rule, and rule 6D, the expression "salary" shall have the meaning assigned to it in clause (h) of rule 2 of Part A of the Fourth Schedule.

6D. **Expenditure in connection with travelling etc.**—(1) (i) The allowance in respect of expenditure incurred by an assessee in connection with travelling by an employee or any other person outside India for the purposes of the business or profession of the assessee shall not exceed the amount which bears to the aggregate of the amount, if any, covered by foreign exchange granted, or permitted to be acquired, for the purpose of such travel under the law relating to foreign exchange for the time being in force and the amount expended on such travel in Indian currency, the same proportion as is determined in the manner specified in clause (ii);

(ii) the proportion referred to in clause (i) shall be determined by dividing the number of days mainly devoted by such employee or other person for the purposes of the business or profession of the assessee outside India, by the total number of days spent by such employee or other person outside India (excluding the number of days required for such travel by a reasonably direct route in the mode of travel adopted by him).

(2) The allowance in respect of expenditure incurred by an assessee in connection with travelling by an employee or any other person within India outside the headquarters of such employee or other person for the purposes of the business or profession of the assessee shall not exceed the aggregate of the amounts computed as hereunder:—

(a) in respect of travel by rail, road, water-way or air, the actual fare paid;

(b) in respect of travel involving journey by road otherwise than by taking a single seat in any public conveyance which plies regularly for hire between fixed points and charges fixed rates, the amount calculated at the rate of 50 paise per kilometre;

(c) in respect of any other expenditure (including hotel expenses or allowance paid) in connection with such travel, an amount calculated at the following rates for the period spent outside such headquarters:

(i) In respect of an employee whose salary is Rs. 1,000 per month or more.	Rs. 100 per day or part thereof.
(ii) In respect of any other employee.	Rs. 50 per day or part thereof.
(iii) In respect of any other person (including a director of a company, who is not an employee of the company).	An amount calculated at the rates applicable in the case of the highest paid employee of the assessee:

Provided that in a case where such employee or other person (including a director of a company, who is not an employee of the company) on any day of his stay outside his headquarters, stays free of charge in any residential accommodation in the nature of a guest house maintained by the assessee, the amount under this clause shall be calculated at one-third of the aforesaid rates and where the employee or such other person is provided lodging only free of charge, at one-half of the aforesaid rates:

Provided further that the Income-tax Officer may allow a deduction of an amount larger than the amount calculated under the aforesaid provisions if he is satisfied that such larger amount has actually been incurred in the performance of the duties.

3. The existing rule 6B of the principal rules shall be re-numbered as rule

[No. 76/F. No. 1(141)-64/TPL.]

V. RAMASWAMI IYER, Secy.

PRINTED IN INDIA BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, NEW DELHI AND PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI, 1965